

The Hon. John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RYAN S. HERNANDEZ,

Defendant.

No. CR19-259-JCC

**MOTION FOR ENTRY OF A
FINAL ORDER OF FORFEITURE**

NOTE ON MOTION CALENDAR:

February 12, 2021

The United States, by and through its undersigned counsel, moves pursuant to Federal Rule of Criminal Procedure (“Fed. R. Crim. P.”) 32.2(c)(2) for entry of a Final Order of Forfeiture forfeiting to the United States the following property, which has already been forfeited by the Defendant Ryan S. Hernandez:

1. One Seagate external hard drive, serial no. Z84112WS;
2. One Apple Macbook, serial no. C02MN8TDFD57;
3. Nintendo Switch console, serial no. XAW10001300634;
4. Nintendo Switch console, serial no. XAW10021377616;
5. IS-Nitro-Emulator, serial no. 08050639; and,
6. NDEV wireless device, serial no. NMA20089065.

1 This motion is based on the following procedural facts, which are reflected in the
 2 pleadings filed and orders entered in this matter, as well as the supporting declaration of
 3 Assistant United States Attorney (“AUSA”) Michelle Jensen.

4 On January 31, 2020, the Defendant entered pleas of guilty to Computer Fraud and
 5 Abuse, in violation of 18 U.S.C. §§ 1030(a)(2)(C) and (c)(2)(B), and Possession of Child
 6 Pornography, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2) (Dkt. No. 11). In his
 7 plea agreement, the Defendant agreed to forfeit his interest in the above-identified
 8 electronics pursuant to 18 U.S.C. § 1030(i), as they facilitated his commission of the
 9 Computer Fraud and Abuse offense (Dkt. No. 11, ¶ 9). On November 23, 2020, the Court
 10 entered a Preliminary Order of Forfeiture finding the electronics forfeitable pursuant to
 11 18 U.S.C. § 1030(i) and forfeiting the Defendant’s interest in them (Dkt. No. 39).

12 Thereafter, as required by 21 U.S.C. § 853(n)(1) and Fed. R. Crim. P.
 13 32.2(b)(6)(C), the United States published notice of the Preliminary Order of Forfeiture
 14 and its intent to dispose of the electronics in accord with governing law (Dkt. No. 51).
 15 That notice informed any third parties claiming an interest in the electronics that they
 16 were required to file a petition with the Court within 60 days of the notice’s first
 17 publication on December 2, 2020 (*Id.*). As required by Fed. R. Crim. P. 32.2(b)(6)(A),
 18 the United States sent notice and a copy of the Preliminary Order to five individuals who
 19 appeared to be potential claimants based on the underlying investigative material. *See*
 20 Declaration of AUSA Michelle Jensen, ¶ 2, Exs. A – E. As provided by 21 U.S.C.
 21 § 853(n)(2), the notice informed the recipients that if they wanted to assert an interest in
 22 the electronics, they were required to file a petition within 30 days. *See id.* Those notices
 23 were all delivered on December 30, 2020. *See id.*

24 No third-party claims have been filed and the relevant period for doing so has now
 25 expired – on January 29, 2021 for the direct notices and on January 31, 2021 for the
 26 published notice. *See* 21 U.S.C. § 853(n)(2), Fed. R. Crim. P. 32.2(b)(6), and Fed. R. Civ.
 27 P., Supp. R. G(5)(a)(ii).
 28

1 As the Defendant's rights in these electronics have been forfeited to the
2 United States and ancillary proceedings have now concluded, the United States
3 respectfully requests the Court enter a final order forfeiting them to the United States.
4 A proposed order is submitted with this motion.

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6 DATED this 3rd day of February, 2021.

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8 Respectfully submitted,
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10 United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on February 3rd, 2021, I electronically filed the foregoing Motion with the Clerk of the Court using CM/ECF system, which automatically serves the ECF participants of record.

/s/ Donna R. Taylor
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